

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

MAVERICK MUSIC, LLC,

Vs.

CITY OF COPPERAS COVE

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NO. 6:-19-cv-613

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CITY OF COPPERAS COVE'S NOTICE OF REMOVAL

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To the Honorable Judge of the United States District Court for the Western District of Texas,

Waco Division:

PLEASE TAKE NOTICE THAT pursuant to Sections 1331, 1441, and 1446 of 28 United States Code, Defendant/Respondent CITY OF COPPERAS COVE, (hereinafter referred to as "Defendant" and/or "City"), hereby removes this action from the 440th Judicial District Court of Coryell County, Texas to the United States District Court for the Western District of Texas, Waco Division. The grounds for removal are as follows:

I.  
PROCEDURAL HISTORY

1. On September 6, 2019, Plaintiff/Petitioner MAVERICK MUSIC, LLC (hereinafter "Plaintiff" and/or "Maverick") filed its *Application for Temporary and Permanent Injunctions and for Violations of Constitutional Rights of Petitioners* in the 440th Judicial District Court, Coryell County, Texas styled *Maverick Music, LLC v. City of Copperas Cove*. The state court assigned Cause Number DC-19-50300. In its pleading, Maverick alleges a cause of action under 42 U.S.C. § 1983 for violation of the Constitution and laws of the United States and the Constitution and laws of the State of Texas.

2. The City was served on October 3, 2019, and at the time of the filing of this Notice has not filed an Answer to this lawsuit.

3. This claim became removable when Maverick commenced the action on September 16, 2019, alleging a question under federal law, namely claims under 42 U.S.C. §1983, and the Constitution of the United States.

4. A true and correct copies of all pleadings, process, and other filings in the state court action as of October 11, 2019 is attached as Exhibit “A”, as required by Section 1441(a) 28 of the United States Code because this district and division embrace the place where the removed action is pending.

5. Removal is proper because Plaintiff’s lawsuit asserts federal claims arising under 42 U.S.C. §1983 and the Constitution of the United States.

## II.

### **THIS COURT POSSESSES JURISDICTION BASED ON SECTION 42 U.S.C. §1983**

6. Except as otherwise provided by Act of Congress, a state court action may be removed to federal court if the federal court has original jurisdiction over the action and the notice of removal is timely. 28 U.S.C. §1441(a).

7. Removal is proper because Plaintiff’s suit involves original jurisdiction of a federal court under a federal statute. 28 U.S.C. §§1331, 1441(a); *Halmekangas v. State Farm Fire & Cas. Co.*, 603 F.3d 290, 293 (5th Cir. 2010)(“If a plaintiff files suit in state court and asserts a federal cause of action or sues completely diverse defendants, the defendants might invoke § 1441 to remove the case to federal court.”); *Gutierrez v. Flores*, 543 F.3d 248, 251 (5th Cir. 2008).

8. In the present case, Plaintiff’s pleads a cause of action under 42 U.S.C. §1983. Plaintiff also asserts certain state law claims and Defendant invokes the Court’s supplemental jurisdiction over those claims pursuant to 28 U.S.C. § 1367.

9. By filing this *Notice of Removal*, Defendant does not waive any defense that may be available to it. Nor does it concede that Plaintiff is entitled to any of the relief or damages claimed.

10. This *Notice of Removal* is filed within the thirty (30) days of service of Plaintiff's federal claims as required by 28 United States Code §1446(b).

11. This suit is removed to the District and division of the United States Courts where the action is pending: the Western District of Texas, Waco Division.

12. The City will file promptly a copy of this Notice of Removal with the clerk of the state court where the action was filed.

**III.**  
**CONSENT OF SERVED DEFENDANT**

13. The City of Copperas Cove is the only party Defendant and has been served. The City consents to the removal of this case to the United States District Court as evidenced by the signature of its counsel below.

WHEREFORE, PREMISES CONSIDERED, Defendant, the City of Copperas Cove, in conformance with the requirements set forth in Section 1446 of 28 United States Code and with the consent of the party Defendant, removes this action for trial from the 440th Judicial District Court of Coryell County, Texas to this Honorable Court, and asks for such further relief to which Defendant may be justly entitled.

SIGNED this 16<sup>th</sup> day of October 2019.

Respectfully submitted,

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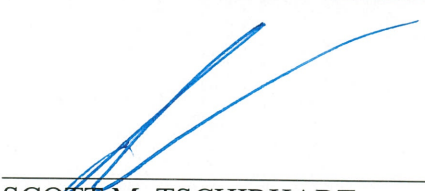
  
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### CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served in accordance with the Texas Rules of Civil Procedure on this 16<sup>th</sup> day of October 2019, to the following:

Thomas L. Young  
Attorney at Law  
1010 W. Jasper, Suite 9  
Killeen, Texas 76542

**E-FILE NOTIFICATION  
AND EMAIL: [legal@mytexaslegal.com](mailto:legal@mytexaslegal.com)**

  
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LOWELL F. DENTON  
CHARLES E. ZECH